

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 12,301 &

) 12,345

Appeal of )

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INTRODUCTION

The petitioner appeals the decisions of the Department of Social Welfare terminating his food stamps and fuel assistance (Fair Hearing No. 12,301) and his medicaid (Fair Hearing No. 12,345). The issue is whether the petitioner refused to provide the Department with information regarding his income and resources.

FINDINGS OF FACT

At a fair hearing regarding an unrelated matter, held on August 30, 1993, the petitioner testified under oath that on July 28, 1993, he had received a retroactive Social Security check for \$8,000.00, and that in July and August, 1993, he had earnings from electrical work he had performed in those months of between \$660.00 and \$880.00. As of the time of that hearing, the petitioner had not reported any of the above information to the Department. The above information is taken from the Human Services Board's Findings of Fact in Fair Hearing No. 12,208.

At the time, the petitioner was a recipient of food stamps, fuel assistance, and medicaid benefits. Following the hearing in Fair Hearing No. 12,208, the Department sent the petitioner a notice dated September 1, 1993, asking him to provide the following information to the Department:

I need verification of your lump sum Social Security benefit you received in July. I need verification of how much you received, and how it was spent, when it was spent, and if there is any left over I need verification of how much there is and where this money is kept.

I also need verification of all income you have received in the past nine months (going back through November 1992).

I have also included a copy of one of many GA applications that you signed, pointing out that you agreed to repay GA should you receive a Social Security lump sum benefit, and a copy of an agreement

to report change you signed. You are required to verify all income in excess of \$25.00.

The notice warned the petitioner that his eligibility for food stamps and fuel assistance could not be determined if the requested information was not provided by September 15, 1993.

The Department heard nothing from the petitioner following its sending of the above notice. On September 17, 1993, it sent the petitioner a notice terminating his food stamps and supplemental fuel assistance effective October 1, 1993. On September 27, 1993, the Department notified the petitioner that his medicaid would terminate as of October 6, 1993, because of the petitioner's failure to verify requested information. This closure of medicaid was reiterated in another notice sent to the petitioner on September 28, 1993. The petitioner filed separate requests for fair hearing following each of the first two notices

(see supra), but still did not contact the Department regarding the requested information.

At the fair hearing held in these matters on October 25, 1993, the petitioner spent well over an hour engaged in a hectoring and seemingly-aimless cross examination of the Department's witness (the local district director). Despite repeated suggestions by the hearing officer that the petitioner address the issue of his income and resources, and several warnings from the hearing officer that the hearing would not be continued indefinitely, at no time during the hearing did the petitioner address his attention to or indicate a willingness to present information regarding his income and resources. The time allotted in advance by the hearing officer for the hearing that day (almost two hours) expired with the petitioner still cross examining the Department's witness. At the close of the hearing the petitioner indicated he still needed several hours more to present his case.

By his Recommendation the hearing officer denied the petitioner's request for further oral hearing. Based on the evidence presented<sup>(1)</sup> and the petitioner's demeanor it is found that the petitioner has at all times fully understood the basis of the Department's decisions in these matters and the issue in these hearings. It is further found that he has pointedly and deliberately avoided addressing the factual basis of the Department's decision--i.e., his income and resources, and has chosen instead to attempt to prolong and manipulate the hearing process in order to obfuscate the issue.

### ORDER

The Department's decision is affirmed.

### REASONS

Based on the petitioner's testimony in Fair Hearing No. 12,208, it was not only reasonable but incumbent under the regulations for the various programs for the Department to seek verification of the petitioner's income and resources. See Medicaid Manual (M.M.) § M131, Food Stamp Manual (F.S.M.) § 273.12(a), and Welfare Assistance Manual (W.A.M.) § 2905. It is clear from the evidence and the petitioner's demeanor at the hearing that the petitioner fully understands his obligation to provide information regarding his income and resources and has blatantly refused to cooperate with the Department in providing any information in this regard. It is also clear that he has no intention of addressing this issue in the fair hearing process. Therefore, it must be concluded that the Department had sufficient grounds under the regulations to terminate the petitioner's benefits under those programs.<sup>(2)</sup>

See M.M. § M133, F.S.M. § 273.12(d), and W.A.M. § 2905(a). The Department's decisions is affirmed.  
3 V.S.A. § 3091(d), Fair Hearing Rule No. 19, and Food Stamp Fair Hearing Rule No. 17.

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1. The petitioner has signed several notices and applications for benefits under each of these programs that included clear agreements to promptly report to the Department any changes in his circumstances.
2. When and if the petitioner is willing to cooperate with the Department in verifying his income and resources he is free to reapply for benefits.